IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11124 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHIRUBHAI JAYRAMBHAI CHHARA THROUGH WIFE

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/02/2001

ORAL JUDGEMENT

The challenge made by the petitioner detenu in this petition under Article 226 of the Constitution is the order dated 24th Sept. 2000 of District Magistrate, Ahmedabad, under which he was ordered to be detained as boot-legger. One of the contentions raised by the

learned Counsel for the petitioner is that the last criminal complaint was lodged against the petitioner on 24th May, 2000, but the order of detention of the petitioner was made on 24th Sept. 2000 i.e. after a delay of about 4 months in making thereof is fatal to the order impugned in this petition. The learned Counsel for the respondent on the other hand supported the order dated 24th Sept. 2000. Having given thoughtful consideration to the submissions made by the learned Counsel for the parties, I am satisfied that the respondents have utterly failed to give out any explanation good, bad or indifferent for this long delay made in passing of the impugned order from the date of the last criminal complaint registered against the petitioner. As this petition deserves to be allowed only on this ground, the other contentions raised by the learned Counsel for the petitioner need not to go into, consider and decide. In the result the petition is allowed. The order of detention of the petitioner dated 24th Sept. 2000 is quashed and set aside. The petitioner Dhirubhai Jayrambhai Chhara, the detenu, at present in Porbandar Jail, Porbandar be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. The respondent - State is directed to pay costs of the petition to the petitioner.

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